

Mark D. Rowland (CSB # 157862)  
 Stepan Starchenko (CSB # 318606)  
**ROPES & GRAY LLP**  
 1900 University Ave. Sixth Floor  
 East Palo Alto, CA 94303-2284  
 Tel: (650) 617-4000  
 Fax: (650) 617-4090  
 mark.rowland@ropesgray.com  
 stepan.starchenko@ropesgray.com

Leslie M. Spencer (*pro hac vice*)  
 DESMARAIS LLP  
 230 Park Avenue  
 New York, NY 10169  
 Tel.: (212) 351-3400  
 Fax: (212) 351-3401  
 lspencer@desmaraisllp.com

*Attorneys for Plaintiff/Counter-Defendant*  
 DOLBY LABORATORIES, INC.

[Additional counsel listed on signature page]

William C. Price (Bar No. 108542)  
 williamprice@quinnemanuel.com  
 Tigran Guledjian (Bar No. 207613)  
 tigranguledjian@quinnemanuel.com  
 Rachael L. McCracken (Bar No. 252660)  
 rachaelmccracken@quinnemanuel.com  
 Jordan B. Kaericher (Bar No. 265953)  
 jordankaericher@quinnemanuel.com  
**QUINN EMANUEL URQUHART &  
 SULLIVAN, LLP**  
 865 South Figueroa Street, 10<sup>th</sup> Floor  
 Los Angeles, California 90017-2543  
 Telephone: (213) 443-3000  
 Facsimile: (213) 443-3100

*Attorneys for Defendant/Counterclaimant*  
 INTERTRUST TECHNOLOGIES  
 CORPORATION

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

DOLBY LABORATORIES, INC.,	)	Case No. 3:19-cv-03371-EMC
	)	
Plaintiff and Counterclaim-Defendant,	)	<b>JOINT STATUS REPORT</b>
	)	
v.	)	
	)	
INTERTRUST TECHNOLOGIES	)	
CORPORATION,	)	
	)	
Defendant and Counterclaim-Plaintiff.	)	
	)	
	)	
	)	

Pursuant to Federal Rule of Civil Procedure 16, Civil Local Rule 16-9, the Standing Order for All Judges of the Northern District of California – Contents of Joint Case Management Statement, this Court’s Civil Standing Order – General, and this Court’s April 14, 2021 Order (Dkt. No. 143), Plaintiff Dolby Laboratories, Inc. (hereafter “Plaintiff” or “Dolby”) and Defendant Intertrust Technologies Corporation (hereafter “Defendant” or “Intertrust”), respectfully submit this Joint Status Report.

1 **I. CASE STATUS**

2 On November 27, 2019, Dolby filed a second amended complaint in this action seeking  
3 declaratory judgment of non-infringement with respect to ten Intertrust patents. On December 11,  
4 2019, Intertrust filed its Answer, Affirmative Defenses, and Counterclaims in response to Dolby's  
5 second amended complaint, alleging infringement by Dolby. On January 8, 2020, Dolby filed its  
6 Answer to Intertrust's counterclaims for patent infringement. The Court ordered the parties to  
7 engage in private mediation by August 15, 2020, which the parties conducted, but they were unable  
8 to reach resolution of their dispute. The Court also set a Case Management and Pretrial Order for  
9 Claims Construction (Dkt. No. 73.), which it later modified in the Joint Stipulation and Order  
10 Regrading Claim Terms & Claim Construction Schedule. (Dkt. No. 101.) The parties engaged in  
11 the claim construction process and a claim construction hearing was held on November 3, 2020. The  
12 Court's Claim Construction Order issued on February 3, 2021. (Dkt. No. 139.)

13 On April 13, 2021, the Parties reached agreement to narrow disputes between them, including  
14 by narrowing the scope of the case to select claims from seven asserted patents and otherwise staying  
15 the case pending resolution of certain *Inter Partes* Review proceedings on the asserted patents filed  
16 by Dolby with the Patent Trial and Appeal Board ("PTAB"). (Dkt. No. 142.) The Court entered the  
17 Joint Stipulation and Order staying the case on April 14, 2021. (Dkt. No. 143.) The PTAB issued  
18 its last final written decision on Intertrust's asserted patents on February 1, 2022, and pursuant to the  
19 Court's Order (*id.*), the stay expired at that time. The Parties were directed to file this Status Report  
20 within one month of expiration of the stay. (*Id.*)

21 Following the Parties' agreement to narrow the scope of the case and the PTAB's finding  
22 unpatentable all asserted claims from five of the seven asserted patents, the only claims remaining  
23 in this case not subject to a PTAB final written decision of invalidity are: claims 25 and 62 of U.S.  
24 Patent No. 7,340,602 (the "'602 Patent") and claims 1 and 2 of U.S. Patent No. 7,406,603 (the "'603  
25 Patent"). There is also currently pending an *ex parte* reexamination of the '603 patent by the PTO.  
26 The asserted claims of this patent have been rejected in a final office action in that proceeding.  
27 Intertrust is in the process of appealing the final office action to the PTAB. In addition, Intertrust  
28 intends to appeal the final written decision applicable to U.S. Patent No. 8,931,106 (the "'106

1 Patent”) to the United States Court of Appeal for the Federal Circuit. A notice of appeal has not yet  
2 been filed in either proceeding. Assuming Intertrust timely files its first response on or before March  
3 7, 2022 to the final Office Action of the reexamination proceedings of the ’603 patent, Intertrust has  
4 until the end of May 5, 2022 to file its notice of appeal of the final office action. Intertrust has until  
5 the end of April 5, 2022 to file its notice of appeal of the PTAB’s final written decision applicable  
6 to the ’106 patent. Dolby believes the timing of any such appeal is uncertain, and has no bearing on  
7 the completion of discovery in this case.

8 **A. Discovery**

9 Pursuant to Patent Local Rules, and the Court’s Case Management and Pretrial Order for  
10 Claims Construction (Dkt. 73), the parties have exchanged infringement and invalidity contentions,  
11 as well as Patent L.R. 3-8 and 3-9 damages contentions. In addition, Dolby has served a first set of  
12 requests for production and interrogatories; Intertrust has served a first set of requests for production,  
13 but no interrogatories.

14 Prior to the stay, Dolby had substantially completed its production of documents and source  
15 code in this case, and because Intertrust also had done so in the related Eastern District of Texas case,  
16 Intertrust does not believe that Dolby has substantially completed its production of documents.  
17 Although Dolby had requested that Intertrust amend its infringement contentions to “identify[]  
18 specifically where each limitation of each asserted claim is found within each Accused  
19 Instrumentality,” as required by P.L.R. 3-1(c), Dolby does not believe that new discovery will be  
20 necessary for such amendment.

21 Intertrust also intends to request that Dolby amend its invalidity contentions. Intertrust  
22 believes that new discovery requests and discovery will be necessary to address any revised  
23 contentions. Dolby does not believe that new discovery requests will be necessary or that substantial  
24 discovery remains in this case. Accordingly, Dolby believes that fact discovery in this case can be  
25 completed within 60 days.

26 Intertrust also believes that substantial discovery remains in this case.

27 **B. Claim Construction**

28 The Court issued its Claim Construction Order on February 3, 2021. (Dkt. No. 139.)

1           **C.     Motions**

2           No motions are currently pending in this action. The parties expect that one or more  
3 dispositive or procedural motions may be filed, in addition to discovery and pre-trial motions *in limine*,  
4 should they become necessary. At minimum, Dolby expects to file a Motion For Summary Judgment  
5 of Non-Infringement of U.S. Patent. No. 7,304,602, similar to Exhibit A to its prior Motion For  
6 Administrative Relief, filed October 14, 2021. (Dkt. No. 146.) The theater defendants in the Eastern  
7 District of Texas case also filed a motion for summary judgment of non-infringement of the ‘602  
8 patent with respect to their accused activities, which Judge Gilstrap denied orally at a pretrial  
9 conference, without written decision. Intertrust had argued in part that the theater defendants waived  
10 grounds upon which they relied in their motion. Judge Gilstrap’s denial was based only in part on  
11 the waived grounds. Judge Gilstrap indicated that he would issue a written opinion in due course. It  
12 is unclear if such an opinion will issue. The arguments presented by the parties and Judge Gilstrap’s  
13 opinion and ruling are available in the transcript of those proceedings.

14           **D.     Status of Pleadings**

15           The parties have pled claims, defenses, and counterclaims, as set forth in Dolby’s Second  
16 Amended Complaint for Declaratory Judgment of Non-Infringement (Dkt. No. 61), Intertrust’s  
17 Answer, Affirmative Defenses, and Counterclaims (Dkt. No. 63), and Dolby’s Answer to Intertrust’s  
18 Counterclaim for Patent Infringement (Dkt. No. 66).

19           **E.     Settlement**

20           As detailed below, on February 10, 2022, Intertrust and the Texas theater defendants  
21 informed the Court for the Eastern District of Texas that they had reached an agreement that resolves  
22 all matters in those related cases in the Eastern District of Texas. That settlement also addresses  
23 Intertrust’s allegations against Dolby with respect to those theaters. Dolby disputes that it has any  
24 liability with respect to those theaters or otherwise. Intertrust believes that the Texas cases resolve  
25 only a portion of Dolby’s potential liability. Intertrust believes additional discovery is necessary to  
26 identify the amount of Dolby’s remaining liability in this case.

27           Dolby and Intertrust have had settlement negotiations at various times recently and are in  
28 active negotiations that may resolve this case during the next 14 days.

**F. Trial**

Both parties have demanded a jury trial and presently anticipate needing 6 court days for that trial.

**II. INTERTRUST'S RELATED LITIGATION**

On August 7, 2019, Intertrust filed three cases against Dolby's customers in the United States District Court for the Eastern District of Texas: *Intertrust Technologies Corporation v. AMC Entertainment Holdings, Inc.*, Case No. 2:19-cv-00265; *Intertrust Technologies Corporation v. Cinemark Holdings, Inc.*, Case No. 2:19-cv-00266 (Lead Case); *Intertrust Technologies Corporation v. Regal Entertainment Group*, Case No. 2:19-cv-00267. Those cases are now dismissed or stayed pending settlement, as follows:

On November 30, 2021, Intertrust and Regal Entertainment Group filed a Stipulation of Dismissal following a joint motion to stay all deadlines pending settlement.

On February 14, 2022, Judge Gilstrap of the Eastern District of Texas issued an Order granting a February 10, 2022, Joint Motion to Stay All Deadlines and Notice of Settlement by the remaining parties. These cases are stayed until approximately March 14, 2022, during which time the parties are to finalize their formal settlement agreement and dismiss the cases.

**III. SCHEDULING**

The parties request an initial post-stay status conference with the Court as soon as possible after March 14, 2022, to address the scope of discovery remaining in the case in view of the remaining set of asserted claims.

**A. Dolby's Position**

In accordance with the parties' prior Joint Case Management Conference Statement (Dkt. 71), Dolby proposes the following schedule dates for fact discovery cutoff, expert disclosures, dispositive motions, pretrial conference and trial. Delay in setting a schedule will not promote settlement. In the event that the parties reach an agreement in principle to settle, they can notify the

Court at that time, and jointly request a temporary stay to finalize a formal settlement agreement, as has occurred in the Eastern district of Texas.

<u><b>EVENT</b></u>	<u><b>Proposed Date</b></u>
Deadline to Complete Fact Discovery	60 days after the Court's Status Conference
Disclosures for Expert Witnesses by the Party with the Burden of Proof	30 days after Close of Fact Discovery
Disclosures for Rebuttal Expert Witnesses	30 days after Initial Expert Reports
Deadline to Complete Expert Discovery	21 days after Rebuttal Expert Reports
Last Day to file <i>Daubert</i> Motions	30 days after Close of Expert Discovery
Last Day to file Dispositive Motions	45 days after Close of Expert Discovery
File Oppositions to <i>Daubert</i> Motions	30 days after deadline for <i>Daubert</i> Motions
File Oppositions to Dispositive Motions	30 days after deadline for Dispositive Motions
File Reply to <i>Daubert</i> Motions	14 days after deadline for Oppositions to <i>Daubert</i> Motions
File Reply to Dispositive Motions	14 days after deadline for Oppositions to Dispositive Motions
Hearing on <i>Daubert</i> and Dispositive Motions, subject to the Court's discretion	14 days after deadline for Reply to Dispositive Motions
Meet and confer regarding preparation of joint pretrial conference statement, preparation and exchange of pretrial materials, and settlement of the action.	45 days before Pretrial Conference Statement
Motions <i>in limine</i> to be served	35 days before Final Pretrial Conference
Oppositions to motions <i>in limine</i>	25 days before Final Pretrial Conference
File motions <i>in limine</i> and oppositions	21 days before Final Pretrial Conference
Deadline to file joint pretrial statement and pretrial materials (including joint proposed jury instructions; joint proposed verdict form; and trial brief)	21 days before Final Pretrial Conference
Final Pretrial Conference	≤ 28 days before Trial, subject to the Court's calendar

<u>EVENT</u>	<u>Proposed Date</u>
Trial	≤ October 25, 2022, subject to the Court's calendar

**B. Intertrust's Position**

Intertrust does not agree with Dolby's proposed schedule and believes that an additional 180 days are needed to complete discovery. Intertrust proposes that before the Court sets a case schedule, the Court set a date by which the parties are to try to reach a compromise that resolves their dispute. Specifically, Intertrust proposes that the parties attempt to resolve their dispute through private negotiation by April 11, 2022. Intertrust believe that the likelihood of a settlement during the next 14 days suggests that spending the parties' time and the court's time in setting a schedule should wait until it seems more likely that such a schedule will be needed. Thereafter, the parties should propose a schedule for the remainder of the case.

Respectfully submitted,

Date: March 1, 2022

By: /s/ Mark D. Rowland

Mark D. Rowland (CSB # 157862)  
Stepan Starchenko (CSB# 318606)  
**ROPES & GRAY LLP**  
1900 University Ave. Sixth Floor  
East Palo Alto, CA 94303-2284  
Tel: (650) 617-4000  
Fax: (650) 617-4090  
mark.rowland@ropesgray.com  
stepan.starchenko@ropesgray.com

Leslie M. Spencer (*pro hac vice*)  
**DESMARAIS LLP**  
230 Park Avenue  
New York, New York 10169  
Tel. (212) 351-3400  
Fax: (212) 351-3401  
lspencer@desmaraisllp.com

Yong Wang (CSB # 326534)  
**DESMARAIS LLP**  
101 California Avenue  
San Francisco, CA 94111

Tel. (415) 573-1900  
Fax: (415) 573-1901  
lwang@desmaraisllp.com

Josef B. Schenker (*pro hac vice*)  
**ROPES & GRAY LLP**  
1211 Avenue of the Americas  
New York, New York 10036-8704  
Tel: (212) 596-9000  
Fax: (212) 596-9090  
josef.schenker@ropesgray.com

*Attorneys for Plaintiff/Counterclaim-Defendant*  
DOLBY LABORATORIES, INC.

Date: March 1, 2022

By: /s/ Tigran Guledjian

William C. Price (Bar No. 108542)  
williamprice@quinnemanuel.com  
Tigran Guledjian (Bar No. 207613)  
tigranguledjian@quinnemanuel.com  
Rachael L. McCracken (Bar No. 252660)  
rachaelmccracken@quinnemanuel.com  
Jordan B. Kaericher (Bar No. 265953)  
jordankaericher@quinnemanuel.com  
**QUINN EMANUEL URQUHART &  
SULLIVAN, LLP**  
865 South Figueroa Street, 10<sup>th</sup> Floor  
Los Angeles, California 90017-2543  
Telephone: (213) 443-3000  
Facsimile: (213) 443-3100

*Attorneys for Defendant/Counterclaim-Plaintiff*  
INTERTRUST TECHNOLOGIES  
CORPORATION



**ATTESTATION**

I, Mark D. Rowland, am the ECF user whose identification and password are being used to file this Joint Status Report. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that all signatories to this document have concurred in this filing.

DATED: March 1, 2022

/s/ Mark D. Rowland

Mark D. Rowland

**CERTIFICATE OF SERVICE**

I hereby certify that on March 1, 2022, I caused the foregoing document to be electronically filed with the Clerk of the Court using CM/ECF.

DATED: March 1, 2022

/s/ Mark D. Rowland

Mark D. Rowland